



Press Release

National Labor Relations Board

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Additional Circuit Court of Appeals rules in favor of two-member NLRB decisions in issue before the Supreme Court

As the National Labor Relations Board awaits a Supreme Court ruling on its authority to issue decisions with three of its five seats vacant, another Circuit Court of Appeals made its position clear by ruling in the Board's favor.

The decision by the Tenth Circuit, which was issued Tuesday (December 22), brings the number of favorable rulings to five – with U.S. Courts of Appeals for the First, Second, Fourth and Seventh Circuits also upholding the two-member Board's authority. In contrast, the District of Columbia Circuit found the two remaining members of the NLRB – Chairman Wilma Liebman and Member Peter Schaumber – did not have the authority to issue decisions.

The Board has operated with only two members since January 2008 and has issued decisions in more than 500 cases. Many decisions have been accepted by the parties, but more than 80 have been challenged on the two-member question and are awaiting resolution in the courts. On November 2, the Supreme Court agreed to settle the matter of the two-member Board's authority, and a ruling is expected during the current term. Meanwhile, three NLRB nominees, put forward by President Obama in July, are awaiting confirmation by the full Senate.

Wednesday's decision in [*Teamsters Local 523 v. National Labor Relations Board*](#) involved sales representatives and distributors of bakery products in Oklahoma who belonged to two separate union locals that were merged when job distinctions blurred. Union members retained their seniority in the merged unit for purposes of bidding for routes. However, one long-time employee who had not joined the Union previously was put at the bottom of the seniority list by the Teamsters' local. The NLRB found that the Union's treatment of the formerly unrepresented employee was unlawful and that the employee should be credited with all previous years of work in regards to seniority. The Circuit Court upheld that ruling.

The National Labor Relations Board is an independent federal agency vested with the power to safeguard employees' rights to organize and to determine whether to have unions as their bargaining representative. The agency also acts to prevent and remedy unfair labor practices committed by private sector employers and unions.

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